

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In re Applications of	)	
	)	
WorldCom, Inc. and its Subsidiaries,	)	
As Debtor in Possession,	)	
Assignor	)	
	)	
AND	)	WC Docket No. 02-215
	)	
WorldCom, Inc. and its Subsidiaries	)	
Assignee	)	
	)	
	)	
For Consent to Assign Commission	)	
Licenses	)	

**SBC'S OPPOSITION TO MARGARET F. SNYDER'S  
CONSOLIDATED APPLICATION FOR REVIEW**

SBC Communications Inc. ("SBC") opposes the Consolidated Application for Review ("Application") filed by counsel for Margaret F. Snyder on January 20, 2004, requesting that the Commission review the letter decision of the Wireless Telecommunications Bureau (the "Bureau") that the bankruptcy agreement between WorldCom and SBC (the "Agreement") is not covered by Commission Rule 1.935.<sup>1</sup> The Application fails to comply with the procedural requirements set forth in Commission Rule 1.115 for applications for review. There is, moreover, no substantive basis for the Commission to review the Bureau's decision. SBC was not required by 47 C.F.R. § 1.935 to file a copy of the Agreement with the Bureau. Rather, SBC did so voluntarily, in the spirit of cooperation. Accordingly, the Application should be denied.

As an initial matter, the Application should be rejected because it is procedurally infirm. The Application seeks Commission review of the Bureau's letter decision concerning the application of Commission Rule 1.935 to the Agreement between SBC and WorldCom. SBC

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<sup>1</sup> Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, FCC, to Arthur V. Belendiuk, Smithwick and Belendiuk, P.C. and Jim Lamoureux, Senior Counsel, SBC Telecommunications, Inc., DA 03-3846 (Dec. 19, 2003).

clearly was a party for purposes of the Bureau's letter decision, and Commission Rule 1.115(f) requires that applications for review "shall be served upon the parties to the proceeding." Counsel for Mrs. Snyder, however, did not serve SBC (or anyone other than WorldCom), and thus failed to comply with Rule 1.115(f). The Application is thus procedurally defective, and, for this reason alone, should be denied.

If, however, the Commission does not deny the Application because of its procedural defects, it should nonetheless do so on the merits. Rule 1.935 is triggered only when a party has filed or threatened to file an opposition to an application and then seeks to withdraw or refrain from filing that opposition. As the Bureau found, that triggering event did not occur in this instance. The Bureau found "insufficient evidence to conclude that SBC made the type of threat covered by section 1.935, and, therefore the agreement is not covered by the rule."<sup>2</sup> Counsel for Mrs. Snyder offers literally no evidence to contradict the Bureau's finding. The fact is, as the Bureau found, SBC never made any such "threat to file a petition to deny" WorldCom's wireless applications in this docket or otherwise triggered the application of Rule 1.935. Indeed, until it voluntarily submitted a copy of the Agreement, SBC made no filings or even appeared in any way in this docket. Nor did any other statements made by SBC constitute an opposition to or a threat to file a petition to deny any of WorldCom's wireless applications in this docket.

Moreover, the structure of the rule, and the usual manner in which it has been applied by the Bureau, confirm that the rule does not apply in this situation. The introduction to the rule mentions generally the requirement of Commission approval for parties that have "filed or threatened to file a petition to deny . . . and then seek to withdraw or request dismissal of, or refrain from filing the petition." However, the actual requirement of the rule, set forth in 1.935(a), requires a party to submit to the Commission a "request for approval of the withdrawal or dismissal." Since SBC never made any filings in this docket until it voluntarily submitted the Agreement, it had no need to seek permission to withdraw or dismiss any such pleadings.

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<sup>2</sup> *Id.* at 2.

Clearly, the rule is intended to cover the situation in which a party actually opposes a wireless application—through an actual filing—and then seeks to withdraw that opposition, which was certainly not the case here.

SBC has found no reported instance in which the rule was invoked to cover a situation in which a party never filed an opposition in the first place. Specifically, SBC has found no instance in which a party was required under the rule to seek permission from the Commission for “refraining” from filing an opposition. Indeed, the absurdity of having to file a request for permission not to file indicates the irrational nature of such an overly broad interpretation of the rule. Accordingly, SBC respectfully requests that the Commission deny the Consolidated Application for Review filed by counsel for Mrs. Snyder.

Respectfully submitted,

/s/ Jim Lamoureux

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February 4, 2004

## CERTIFICATE OF SERVICE

I, Lacreteria Hill, hereby certify that on this 4th day of February, 2004, a true and correct copy of SBC's Opposition to Margaret F. Snyder's Consolidated Application for Review in the matter of *WC Docket No. 02-215* has been forwarded to the following via electronic and United States Postal Service first class mail:

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